

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Enoch Sowah	Team: Squad #7	CCRB Case #: 201806754	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 08/11/2018 1:00 PM	Location of Incident: Yankee Stadium Police Detail Stationhouse; 161st Street and River Avenue	Precinct: 44	18 Mo. SOL 2/11/2020	EO SOL 2/11/2020	
Date/Time CV Reported Mon, 08/13/2018 1:33 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Mon, 08/13/2018 1:33 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Edward McClain	14159	943544	PBBX

Officer(s)	Allegation	Investigator Recommendation
A.POM Edward McClain	Discourtesy: At the Yankee Stadium Police Detail Stationhouse, Police Officer Edward McClain spoke discourteously to § 87(2)(b)	
B.POM Edward McClain	Abuse: At 161st Street and River Avenue in the Bronx, Police Officer Edward McClain stopped § 87(2)(b)	
C.POM Edward McClain	Abuse: Abuse of Authority: At 161st Street and River Avenue in the Bronx, Police Officer Edward McClain stopped § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On August 13, 2018, § 87(2)(b) filed this walk-in complaint with the CCRB.

On August 11, 2018, at approximately 1 p.m., inside the Yankee Stadium Police Detail stationhouse, Police Officer Edward McClain of the Patrol Borough Bronx allegedly cursed and used profanity towards § 87(2)(b) (**Allegation A: Discourtesy, § 87(2)(g)**). PO McClain allegedly stopped § 87(2)(b) and his friend, § 87(2)(b) while they were boarding a New York City (NYC) Metropolitan Transportation Administration (MTA) bus (**Allegations B and C: Abuse of Authority, § 87(2)(g)**).

§ 87(4-b), § 87(2)(g)

No arrest or summonses resulted from this incident.

§ 87(2)(b) recorded portions of this incident on his cell phone (BR01).

Findings and Recommendations

Allegation (A) Discourtesy: At the Yankee Stadium Police Detail Stationhouse, Police Officer Edward McClain spoke discourteously to § 87(2)(b)

§ 87(2)(b) (BR02) said that he and his friend, § 87(2)(b) went to the stationhouse to retrieve his vouchered property stemming from his arrest on § 87(2)(b). § 87(2)(b) met his arresting officer, PO Edward McClain, at the stationhouse front door, and said he was there to retrieve his vouchered property. PO McClain replied, “Okay, are you going to be an asshole today?” § 87(2)(b) said he did not want to be bothered and wanted his property returned to him. PO McClain asked § 87(2)(b) to wait outside and he went inside the stationhouse. PO McClain returned to the front door approximately 35 minutes later and asked § 87(2)(b) to follow him inside the stationhouse so he could sign for his vouchered property. § 87(2)(b) complied and went inside the stationhouse alone.

While filing out the paperwork, PO McClain again said to § 87(2)(b) “Are you not going to be an asshole today?” § 87(2)(b) did not recall seeing any additional officers inside the stationhouse when PO McClain allegedly made this statement. § 87(2)(b) told PO McClain that he did not want trouble and continued filing out the paperwork. PO McClain then ordered § 87(2)(b) to leave the stationhouse and said his property was no longer going to be released to him. § 87(2)(b) exited the stationhouse, but remained at the front door. § 87(2)(b) rang the bell on the stationhouse’s front door and an officer, who § 87(2)(b) could not describe, answered. § 87(2)(b) told the unidentified officer that PO McClain had refused to release his vouchered property to him. The unidentified officer asked § 87(2)(b) to wait outside and said he was going to find out what happened with § 87(2)(b)’s property. The unidentified officer returned a few minutes later and gave § 87(2)(b) all his vouchered property, except \$330, which was vouchered as arrest evidence. § 87(2)(b) took his property and left with § 87(2)(b).

§ 87(2)(b) provided a phone statement to the CCRB, and said he was not present at the scene to witness this portion of the encounter (BR03). § 87(2)(b) however, said that prior to § 87(2)(b) going to the stationhouse alone, he and § 87(2)(b) met PO McClain and an unidentified officer in the vicinity of Yankee Stadium, and that PO McClain allegedly told them that he would “fucking continue to harass you” and “fucking lock you up.” § 87(2)(b) has since become uncooperative with the investigation (BR04). Given this, and given that § 87(2)(b) did not make these allegations, a threat of arrest and an additional discourteous statement allegation were not pleaded.

PO McClain (BR05) acknowledged having had multiple interactions with § 87(2)(b) and § 87(2)(b) and said he has arrested them multiple times for § 87(2)(b) at Yankee Stadium. PO McClain, however, had no recollection of this incident and denied interacting with either § 87(2)(b) and § 87(2)(b) on any day subsequent to § 87(2)(b)'s arrest on § 87(2)(b). PO McClain denied making the alleged discourteous statements to either § 87(2)(b) or § 87(2)(b).

§ 87(2)(g)

Allegation B: Abuse of Authority: At 161st Street and River Avenue in the Bronx, Police Officer Edward McClain stopped § 87(2)(b)

Allegation C: Abuse of Authority: At 161st Street and River Avenue in the Bronx, Police Officer Edward McClain stopped § 87(2)(b)

§ 87(2)(b) said after he and § 87(2)(b) left the stationhouse, they observed PO McClain and an unidentified officer, who § 87(2)(b) could not describe, following them as they headed towards the MTA BX6 Select Bus Service stop, located at the corner of 161st Street and River Avenue. § 87(2)(b) did not know why the officers were following them, but said he believed it was a tactic meant to harass and intimidate them. § 87(2)(b) and § 87(2)(b) purchased their bus tickets from the electronic ticket machine at the bus stop, and boarded the arriving BX6 Select Bus heading towards Webster Avenue in the Bronx. However, just as the bus was about to drive off, PO McClain stopped and boarded the bus. He then accused § 87(2)(b) and § 87(2)(b) of failing to pay the bus fare. § 87(2)(b) and § 87(2)(b) showed their bus tickets to the bus driver, who confirmed to PO McClain that they paid their fare. PO McClain exited from the bus and the bus left the station.

§ 87(2)(b) closely corroborated § 87(2)(b)'s account.



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§ 87(2)(b) recorded portions of this encounter on his cell phone (see file # 201806754_20180816_1547_DM). The video shows § 87(2)(b) already on the bus and walking towards the bus driver. He says, "Man, we paid. Why we have to pay again" as he approaches the front of the bus. At 00:12, § 87(2)(b) whose back is facing the camera, and PO McClain, who is standing by the front entrance door, are both speaking to the bus driver, whose face is not depicted, but what they say is inaudible, except that at 00:13, PO McClain says, "everyone else paid." § 87(2)(b) says to PO McClain, "How [are you going to] say we didn't pay... We got tickets.... You're jumping on the bus and harassing us that much." PO McClain does not respond to § 87(2)(b) and has his face turned towards the bus driver. At 00:27, PO McClain points at § 87(2)(b) while still facing the bus driver, and asks if § 87(2)(b) paid his bus fare. § 87(2)(b) yells, "I got a ticket." PO McClain orders § 87(2)(b) to show the ticket to the driver. It is unclear from the video if § 87(2)(b) gives his ticket to the bus driver. However, at 00:39, PO McClain asks the bus driver if § 87(2)(b) paid and says to him, "what time is on it." The bus driver appears to respond to PO McClain, but what he says is inaudible and drowned by § 87(2)(b) voice, who repeatedly yells that PO McClain is harassing him. At

00:45, PO McClain says to the driver, “Did he pay? No, he didn’t, right?” The driver appears to respond, but what he says is again drowned by § 87(2)(b) voice, who replies, “Yes I did.... Thank you...I’m glad you did it again boss.” At 00:57, PO McClain thanks the bus driver, shakes the driver’s hands, and exits the bus. § 87(2)(b) says to PO McClain, “I got you this time. That’s harassment.” PO McClain gives § 87(2)(b) a thump up and says, “No problem...Great.”

PO McClain had no recollection of this incident, and denied interacting with § 87(2)(b) and § 87(2)(b) on any city public transportation system. PO McClain said he was not a transit officer, thus he had no business stopping buses to ensure that the patrons on the bus had paid their fares. PO McClain reviewed the above referenced video footage and identified himself as the officer on the bus interacting with the two civilians and the bus driver, but he said he had no recollection of this incident, nor did he recall the circumstances that led to him being on the bus. PO McClain said he did not recall how he determined that the two civilians had failed to pay their bus fare, nor did he recall if he suspected them of any criminal acts.

While the video footage does not show PO McClain physically stopping the bus, it shows him on the bus arguing with § 87(2)(b) and § 87(2)(b) and also asking the bus driver if § 87(2)(b) and § 87(2)(b) paid their fare. PO McClain’s line of questioning, as depicted in the video, thus suggests that he suspected § 87(2)(b) and § 87(2)(b) of failing to pay their bus fare. The video also suggests that the bus driver confirmed that § 87(2)(b) and § 87(2)(b) paid their fares, which thus prompted PO McClain to thank the driver, shake his hands, and exit the bus without taking any police action.

A “public place” is a place to which the public or a substantial group of people have access, and it includes, but not limited to highways, transportation and transit facilities, and public streets. New York State Penal Law §240.00 (BR06).

Individuals are not permitted to enter the NYC Transit subway system or buses without payments of their fare. Failure to comply may attract a fine or a criminal charge. MTA NYC Transit Rules of Conduct and Fines (BR07). A person is guilty of theft of services when with the intent to obtain railroad, subway, bus, or any other public transportation service without payment of the lawful charge therefor, or to avoid payment of the lawful charge for such transportation services rendered. New York Penal Law §165.15.3 (BR08).

Officers may stop and question an individual when they have reasonable suspicion that the individual has committed, is committing, or is about to commit a crime. People v. DeBour, 40 N.Y.2d.210 (1976) (BR09). Reasonable suspicion exists when the information known to the officer would make an ordinarily prudent and cautious police officer under the circumstances believe criminal activity is at hand. NYPD Patrol Guide, Procedure 212-11 (BR10).

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
- § 87(2)(b)
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
- PO McClain has been a member-of-service for 12 years and has been a named subject in seven CCRB complaints and 17 allegations, two of which were substantiated, and five of which remains open:
 - Case # 201209982 involved two substantiated allegations of force with a vehicle. The Board recommended charges. The NYPD disposition is unknown.
 - PO McClain has five discourtesy-word allegations pleaded against him stemming from three separate complaints, two of which were unsubstantiated, and the remaining of which remains open.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.

- On February 6, 2019, a Notice of Claim inquiry was sent to the NYC Office of the Comptroller, and the inquiry is still pending. The results will be added to the case file upon receipt (BR13).

- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date